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10/751,390	01/05/2004	Johannes Kaeppeler	03345-P0046A	2672

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EXAMINER	
MACARTHUR, SYLVIA	
ART UNIT	PAPER NUMBER
1792	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JOHANNES KAEPPELER

Application No. 10/751,390
Technology Center 1700

Mailed: July 16, 2008

Before DALE M. SHAW *Chief Appeals Administrator.*

SHAW, *Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 3, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

The Final Rejection mailed June 5, 2007, (pg. 6) and the Examiner's Answer mailed January 22, 2008, (pg. 7) both failed to include Claims 15 and 16 in the 103(a) rejection as being unpatentable over Rupp et al (6,740,167) in view of Burk, Jr. et al (5,788,777). However, both actions include arguments for the rejection of Claims 15 and 16 in the "arguments" section that follow the rejection of the claims (see Final Rejection, pgs.8-9 and Examiner's Answer, pg. 9).

Correction is required. The Examiner may issue and mail a PTOL-90 to clarify the status of Claims 15 and 16.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on February 26, 2008. There is no evidence on the record indicating that the examiner has considered the Reply Brief in accordance with 37 CFR CFR § 41.43(a)(1) and MPEP § 1208.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) issue and mail a form PTOL-90 clarifying the rejection of Claims 15 and

16 under 103(a) as being unpatentable over Rupp et al (6,740,167) in view of Burk, Jr. et al (5,788,777) in the Examiner's Answer;

2) consider and acknowledge the Reply Brief filed February 26, 2008; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

DMS/tsj

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